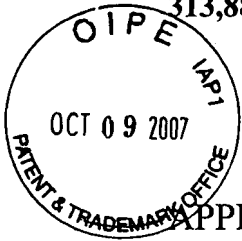


10-11-07

IFW

313,880 (DT-6644)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Nerio Alessandri et al.

SERIAL NO.: 10/674,447

FILED: September 29, 2003

FOR: EXERCISING MACHINE

EXAMINER: Jerome W. Donnelly

GROUP: 3764

Mail Stop: **AMENDMENT**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

October 9, 2007

This correspondence is being deposited with the United States Postal Service on October 9, 2007 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number **ER 059 679 645US** addressed to the Honorable Commissioner for Patents, Alexandria, VA 22313-1450.

**PETITION TO WITHDRAW
HOLDING OF ABANDONMENT**

Sir:

A Notice of Abandonment dated September 21, 2007 has been received in the above-referenced application. The Notice states that the above-referenced application became abandoned for an alleged failure of the applicants to timely file a proper reply to the Office letter mailed March 12, 2007.

However, a timely reply (with an appropriate request for a three-month extension of time) was filed on September 6, 2007 by Express Mail and was received in the U.S. Patent and Trademark Office, as evidenced by a return

postcard (copy enclosed) bearing a USPTO stamp. Also enclosed is a copy of the amendment as filed.

In view of the above, it is respectfully requested that the holding of abandonment be withdrawn and the above-referenced application be returned to the pending status.

Respectfully submitted,

Alexander Zinchuk

Alexander Zinchuk

Reg. No. 30,541

Abelman, Frayne & Schwab
666 Third Avenue, 10th Floor
New York, NY 10017-5621
Tel: 212-885-9383

313,880
(DT-6644)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Nerio Alessandri et al.
SERIAL NO.: 10/674,447
FILED: September 29, 2003
FOR: EXERCISING MACHINE

EXAMINER: Jerome W. Donnelly GROUP: 3764

Mail Stop: **Amendment**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 6, 2007

This correspondence is being deposited with the United States Postal Service on September 6, 2007 in an envelope as "Express Mail Post Office to Addressee"

Mailing Label Number **ER 059 679 424 US** addressed to the Honorable
Commissioner for Patents, Alexandria, VA 22313-1450.

AMENDMENT

Sir:

In response to the Office Action dated March 12, 2007 (a Petition for a three-month extension of time being enclosed), please amend the above-referenced application as follows:

In the Claims:

Amend claim 13 and add claim 18.

1-12 (Canceled).

13. (Currently amended). An exercising machine comprising a frame; at least one operating apparatus for performing a physical exercise; at least one load group supported by the frame; at least one cable for connecting the at least one load group with the at least one operating apparatus; a plurality of transmission members supported by the frame and defining a path of the cable, the operating apparatus being displaceable between two consecutive transmission members to a desired position, the cable path including at least one exercising section defined by the two consecutive transmission members, the two consecutive transmission members being supported by the frame at respective fixed positions for rotation about respective axes extending transverse to respective pivot axes of the two

consecutive transmission members to provide for rotational movement of the at least one exercising section about the transverse axes, wherein the operating apparatus comprises a handle connected with at least one cable and fitted in a freely slidable manner thereon for accommodating user's work-out requirements.

14. (Previously presented). An exercising machine as claimed in claim 13, wherein the at least one exercising section is oriented in a vertical direction.

15. (Previously presented). An exercising machine as claimed in claim 13, wherein the at least one exercising section is oriented in a horizontal direction.

16. (Previously presented). An exercising machine as claimed in claim 14, further comprising at least one further exercising section oriented in a horizontal direction.

17. (Previously presented). An exercising machine as claimed in claim 13, wherein the at least one load group comprises at least one load unit having adjustable load values.

18. (New). An exercising machine as claimed in claim 13, comprising a plurality of load groups supported by the frame; a respective plurality of cables for connecting respective load groups with respective operating apparatuses, wherein each operating apparatus comprises a handle connected with a respective cable and fitted in a freely slidable manner thereon.

REMARKS:

The present amendment amends claim 13 and adds claim 18.

Reconsideration of the application in view of the present amendment is respectfully requested.

Based on the foregoing amendments and the following remarks the application is deemed to be in condition for allowance and action to that end is respectfully requested.

Claims 13-17 were rejected under 35 U.S.C. §102(b) as being anticipated by Vittone et al., U.S. Patent No. 5,928,117 (Vittone). It is respectfully submitted that claim 13, as amended, and claims 14-18, dependent on claim 13, are patentable over Vittone.

Specifically, claim 13 now recites that the operating apparatus comprises a handle connected with at least one cable and fitted in a freely slidable manner thereon for accommodating user's work-out requirements.

As explained in the specification, fitting of the handle on the cable in a freely slidable manner permits the user to take hold of the handle in the lowered rest position and move it spontaneously to a height which feels physiologically

most comfortable, i.e., the position of the handle would define "a cable working area" the user is comfortable with. And this without any pre-stress on the limbs of the user due to the cable pretension. The absence of any ties, which condition the choice of the user on where to place the handle along the cable avoids traction pre-stress on the cable before the beginning of the workout and allows the user to vary the position of the handle on the cable at any moment during the progress of the exercise.

No such handle is disclosed in Vittone. Vittone discloses an inner frame (31; 100) supported by several cables within an outer frame and movable by the user. Clearly, Vittone discloses a completely different type of exercising machine.

Vittone does not disclose an exercising machine as claimed. Since Vittone fails to disclose each and every feature of independent Claim 13, Vittone, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Vittone does not anticipate or make obvious the present invention as defined in Claim 13, and the present invention is patentable over Vittone.

Claims 14 – 18 depend on claim 13 and are allowable as being dependent on an allowable subject matter.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,


Alexander Zinchuk, Reg. No. 30,541

Abelman, Frayne & Schwab
666 Third Avenue, 10th Floor
New York, NY 10017-5621
212-885-9383

**ABELMAN, FRAYNE & SCHWAB**

Attorneys at Law
666 Third Ave., 10th Floor
New York, New York 10017-5621
Telephone: (212) 949-9022

INTERNAL CHECK REQUEST FROM Alexander Zinchuk/bjw

DATE OF REQUEST September 6, 2007

PAYEE: COMMISSIONER OF PATENTS AND TRADEMARKS

BILL CONTROL NO(S): \$ 3683

DATE OF CHECK: September 6, 2007 CHECK NO. _____

AMOUNT: \$ 1,020.00 FOREIGN CURRENCY _____
AT RATE (____)

BILLABLE: _____ NON-BILLABLE: _____

CLIENT: Roncuzzi & Associates PERSONAL TO: _____

OR

AFS DOCKET NO.: 313,880 (DT-6644) Inv.: Alessandri, etal. OFFICE EXPENSE _____

TYPE OF CHARGE:

FILING FEE _____ NEW PURCHASE _____

SEC/STATE _____ SERVICE _____

LEGALIZATION _____ POSTAGE _____

ASSOC. CHG. _____ PHOTOCOPIES _____

ISSUE FEE _____ SUPPLIES _____

EXTENSION FEE ✓3-Month Extension fee T & E _____

MAINTENANCE FEE _____ PETTY CASH _____

ASSIGNMENT RECORDATION _____

OTHER: _____

BILLED BY AFS

ON _____
D.N. _____
AMT _____



RECEIVED
SEP 17 2007

ABELMAN, PHILIP M. CONTINUED

COMMISSIONER FOR PATENTS

Date Stamp as acknowledgement
of receipt of:

Applicant(s): Nerio Alessandri, et al.
Serial No.: 10/674,447
Control No.: 313,880 (DT-6644)

- 1) Amendment
- 2) Petition for Three-Month Extension of Time
- 3) Check No. 20975 for \$1,020

Initials: AZ/bjw

Date Mailed: September 6, 2007

Express Mail No.: ER 059 679 424 US



COMMISSIONER FOR PATENTS

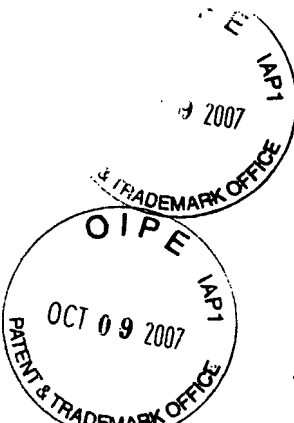
Date Stamp as acknowledgement
of receipt of:

Applicant(s): Nerio Alessandri, et al.
Serial No.: 10/674,447
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Initials: AZ/bjw
Date Mailed: September 6, 2007

Express Mail No.: ER 059 679 424 US



ABELMAN, FRAYNE, & SCHWAB COMMISSIONER ACCOUNT 666 THIRD AVENUE NEW YORK, NY 10017		20975
DATE <u>9/6/07</u>		1-777-260
PAY TO THE ORDER OF	COMMISSIONER OF PATENTS AND TRADEMARK	\$ 1020.00
THE SUM 1020 DOLLARS		DOLLARS
STERLING NATIONAL BANK 622 Third Avenue New York, NY 10017-6707		COMMISSIONER OF PATENTS AND TRADEMARK
FOR <u>S 3683</u>	<u>Sheila Berkofsky</u> MP	

313,880 (DT-6644)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Nerio Alessandri et al.

SERIAL NO.: 10/674,447

FILED: September 29, 2003

FOR: EXERCISING MACHINE

EXAMINER: Jerome W. Donnelly

GROUP: 3764

Mail Stop: **Amendment**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

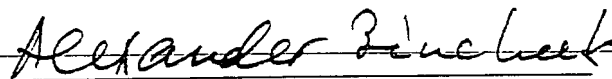
PETITION FOR THREE-MONTH EXTENSION OF TIME

Sir:

Applicant hereby petitions for a three-month extension of time in response to the Office Action dated March 12, 2007 for the above-identified application.

A check for the required fee of \$1,020.00, covering the required statutory fee for the two-month extension of time is enclosed. The Director is authorized to charge any additional fees or credit any overpayments to our Deposit Account No. 01-0035.

Respectfully submitted,

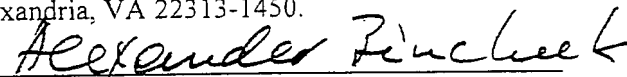


Alexander Zinchuk

Reg. No. 30,541

Dated: September 6, 2007
Abelman, Frayne & Schwab
666 Third Avenue, 10th Floor
New York, NY 10017-5621
Tel: 212-885-9383

This correspondence is being deposited with the United States Postal Service on September 6, 2007 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number **ER 059 679 424 US** addressed to the Honorable Commissioner for Patents, Alexandria, VA 22313-1450.



Alexander Zinchuk



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,447

09/29/2003

Nerio Alessandri

DT-6644

4122

30377 7590 03/12/2007

DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017-5621

EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

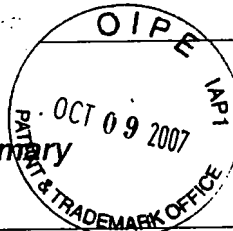
DUE BY 12 Jun 2007

DOCKETED ON 16 Mar 2007

DOCKETED WITHOUT FILE _____

ATTORNEY: AZ

Office Action Summary



Application No.

10/674,447

Applicant(s)

ALESSANDRI ET AL.

Examiner

Jerome W. Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

Applicant's election of Group 2 in the reply filed on dated 11/13/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Vittone et al.

Vittone et al discloses a device comprising: an exercising frame an operating apparatus (fig. 7 element 120) a load group (160) a plurality of transmission members in the form of pulley's, a cable trained over said pulley's, the cable path including a exercising section defined by consecutive transmission members and said consecutive transmission members provide rotational movement of at least on exercising section about the transverse axis.

Vittone et al discloses the pulley/transmission members as being pivotally and (transversely) rotatably mounted to the frame.

In regard to claims 14-16 the interpretes sections of the cable (33) as exercising sections. In light of this interpretation Vittone et al discloses several sections of his device, which are positioned horizontally and vertically.

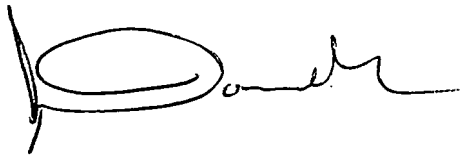
In regard to claim 17 Vittone et al discloses a load group in the form of weight plates where weight may by added and subtracted to obtain adjustable load values.

Art Unit: 3764

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall device of Medart. Note the overall device of Wilson.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

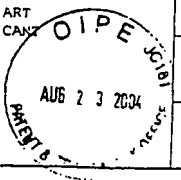
Jerome Donnelly

A handwritten signature in black ink, appearing to read "Donnelly", with a large, stylized initial "D" that loops around the first part of the name.



Form PTO-1449

LIST OF PRIOR ART
CITED BY APPLICANT



Docket No.: DT-6644

Serial No.: 10/674,447

Applicant(s): Nerio Alessandri et al.

Filing Date: September 29, 2003

Group: 3764

U.S. PATENT DOCUMENTS

Exam. Init.		Document Number	Date	Name	Class	Subclass	Filing Date if appropriate
<input checked="" type="checkbox"/>	AA	0 9 3 1 6 9 9	08/1909	Medart			
<input checked="" type="checkbox"/>	AB	4 4 0 2 5 0 4	09/63	Christian			
<input checked="" type="checkbox"/>	AC	6 3 9 4 9 3 5	05/02	Lake			
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

		Document Number	Date	COUNTRY	Class	Subclass	TRANSLATION Yes No
<input checked="" type="checkbox"/>	AL	4 2 0 7 7 9 2	09/93	Germany			
	AM						
	AN						
	AO						
	AP						
	AQ						

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

	AR	Copy of Search Report
	AS	
	AT	

EXAMINER

DATE CONSIDERED

12-2-02

Notice of References Cited



Application/Control No.

10/674,447

Applicant(s)/Patent Under
Reexamination
ALESSANDRI ET AL.

Examiner

Jerome W. Donnelly

Art Unit

3764

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,624,362	04-1997	Wilson, Thomas I.	482/139
*	B	US-931,699	08-1909	Medart	482/102
*	C	US-5,928,117	07-1999	Vittone et al.	482/99
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.